IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 10525 of 2004

Between:

Paladugu Ramesh S/o. Venkata Koteswara Rao
Nandanuru Vill, Ungaturu Mandal, Krishna District.

..... PETITIONER

AND

District Registrar, Registration & Stamps Dept.,
Nalgonda, Nalgonda District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ of Mandamus or any other appropriate writ order or direction declaring the memo No. G1/4044/97, Dt. 1.6.2004, issued by the respondent as illegal, arbitrary and set aside the same.

Counsel for the Petitioner:MR.K.V.SATYANARAYANA

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

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ORDER:

The petitioner filed O.S.No. 146 of 1992 on the file of the District Munsif, Kodad, Nalgonda District, seeking relief of permanent injunction restraining the defendants and their men from interfering with his peaceful possession and enjoyment of the suit schedule property.

When the petitioner sought to mark the document i.e., an agreement of sale as an exhibit, the defendants therein raised an objection that the document is only an agreement of sale executed by the vendor and the same cannot be marked without proper stamp duty in accordance with the provisions of the Indian Stamp Act. Therefore, the learned District Munsif, Kodad after going into the merits of the matter held that the document is a sale deed and therefore, the petitioner is liable to pay stamp duty and penalty treating the agreement as the sale deed and accordingly directed the petitioner to pay deficit stamp duty and penalty of Rs. 2,35,895/- (Rs. 21,450/- towards deficit Court fee and 10 times of the same i.e Rs. 2,14,450/- towards penalty) within a week under Section 35 of the Act. On reference, the District Collector-cum-District Registrar of Stamps, under Section 38 of the Act

passed the order in Lr.No. G1/4044/97, dated 3.10.1998, stating that in view of the order of the Court adjudicating; the issue regarding payment of stamp duty and penalty payable by the petitioner in respect of the disputed instrument, he need not adjudicate the same. Questioning the same, the petitioner filed W.P.No. 30012 of 1998 which was allowed by an order dated 20.2.2003 directing the respondents to adjudicate upon the issue and pass appropriate order as to the amount of Stamp duty and penalty payable by the petitioner. It is submitted that no notice was issued to the petitioner till 8.6.2004. On 8.6.2004 the petitioner received the impugned Memo No. G1/4044/97 dated 1.6.2004, wherein the petitioner was directed to pay the deficit amount of Rs. 2,34,850/- within a period of 15 days from the date of receipt of that notice. The Memo further reads that the copy of the proceedings No. G1/4044/97 dated 10.6.2003 have been enclosed and the order dated 10.6.2003 addressed to the petitioner by Registered Post with acknowledgement due has been returned with an endorsement that the addressee has left the village. Therefore, the petitioner submits that the impugned Memo dated 1.6.2004 is illegal and hence liable to be quashed and he should have been served with a copy of an order-dated 10.6.2003 before issuing the impugned memo dated 1.6.2004.

The impugned Memo dated 1.6.2004 is only a reminder sent to the petitioner informing that the order dated 10.6.2003 sent to the petitioner and the same was returned un-served with an endorsement that the petitioner was not residing in the village.

The learned counsel for the petitioner submits that the order dated 10.6.2003 so far has not been served on the petitioner and if the same is made available, he will seek appropriate remedy as per law.

The learned counsel appearing for the respondent filed a counter narrating the facts regarding passing of the order and agreed if the petitioner approaches in person, a copy of the proceedings would be issued.

In view of the above, the petitioner shall approach the first respondent within a period of two weeks from the date of receipt of a copy of this order and on his approaching the respondent, the respondent shall furnish a copy of the proceedings issued on 10.6.2004 after due acknowledgement of such furnishing of proceedings. After receipt of the said proceedings dated 10.6.2004 the petitioner can seek recourse from the appropriate forum seeking stay of collection of the stamp duty

within a period of three weeks thereafter. It is open for the respondent to take all steps that are available under law for recovery of amount if the petitioner fails to approach the respondent within a period of two weeks from today.

Accordingly, the Writ Petition is disposed of. No costs.

Ka 07.09.2004.

Note: Furnish copy in three days.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.2CCs to G.P for Revenue, High Court Buildings, High Court of A.P, Hyderabad (OUT)

2.2CD copies